

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 326

Introduced by Senator Yee

February 14, 2011

An act to add Chapter 1.45 (commencing with Section 68180) to Title 8 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 326, as amended, Yee. Court records: public access.

Existing law requires the Judicial Council to adopt rules of court to establish the standards and guidelines for the creation, maintenance, reproduction, and preservation of court records, and requires that these standards and guidelines reflect industry standards for each medium used, ensure the accuracy and preserve the integrity of the records, and ensure that the public can access and reproduce the records. Specifically, unless access is otherwise restricted by law, court records created, maintained, preserved, or reproduced under specified provisions are required to be made reasonably accessible to all members of the public for viewing and duplication, and electronic court records must be viewable at the court, whether or not they are accessible remotely. Additionally, rules of court require courts to provide public access to electronic records, as specified.

This bill would require the Judicial Council to adopt a rule of court to require courts to provide *timely* public access to *case-initiating civil and criminal* court records, as defined. The bill would require the rule to provide for newly filed or lodged *case-initiating civil and criminal* court records, *upon request by a member of the public*, to be made available for public inspection at the courthouse no later than the end of the day on which those records are received by the court.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Timely public access to court records and documents as public documents is an important right and necessity for an informed citizenry.

(b) The use of new electronic technologies for filing court actions and modernizing access to court records can, while intended to streamline and improve court functions and public access to court records, actually result in delays in access to court documents.

(c) Delays in public access to court documents and filings should be minimized, therefore ensuring free flow of public information in a timely and cost-effective manner.

(d) *Delays in public access to case-initiating documents have a special significance because those documents are the means by which the public becomes aware that the powers of the judiciary have been invoked with respect to a particular controversy or crime. However, the use of electronic technologies for filing court actions and modernizing access to court records have in many instances had the unintended consequence of increasing delays in access to those case-initiating court records.*

~~(d)~~

(e) It is the intent of the Legislature to ensure, as California's courts move forward to implement various electronic filing and other technologies, that *case-initiating documents, as well as other* court filings and documents, continue to be available to the public on a timely basis.

~~SEC. 2. Chapter 1.45 (commencing with Section 68180) is added to Title 8 of the Government Code, to read:~~

~~CHAPTER 1.45. ACCESS TO TRIAL COURT RECORDS~~

~~68180. The following definitions apply to this chapter:~~

~~(a) (1) "Court record" means all of the following:~~

~~(A) Any document, paper, or exhibit filed or lodged by the parties to an action or proceeding.~~

~~(B) Any order or judgment of the court.~~

~~(C) Any item listed in subdivision (a) of Section 68151, excluding any reporter's transcript for which the reporter is entitled to receive a fee for any copy.~~

~~(2) "Court record" includes both electronic and nonelectronic records.~~

~~(3) "Court record" does not include the personal notes or preliminary memoranda of a judge or other judicial branch personnel.~~

~~(b) "Public" means an individual, a group, or an entity, including, but not limited to, the print or electronic media, or the representative of an individual, group, or entity.~~

~~68181. The Judicial Council shall adopt a rule or rules of court to require courts to provide public access to court records. The rule shall provide for both of the following:~~

~~(a) Newly filed or lodged court records shall be made available for public inspection at the courthouse no later than the end of the day on which those records are received by the court.~~

~~(b) Court records may be made available for inspection at the courthouse in either paper or electronic form.~~

SEC. 2. Chapter 1.45 (commencing with Section 68180) is added to Title 8 of the Government Code, to read:

*CHAPTER 1.45. ACCESS TO CASE-INITIATING TRIAL COURT
RECORDS*

68180. The following definitions apply to this chapter:

(a) (1) "Case-initiating civil and criminal court records" means all of the following:

(A) Any complaint or petition in an unlimited civil case, as defined in Section 88 of the Code of Civil Procedure.

(B) Any writ petition, as provided for in Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure.

(C) Any indictment, information, or complaint in felony and misdemeanor criminal actions.

(2) "Case-initiating civil and criminal court records" includes both electronic and nonelectronic records.

(3) For the purposes of this chapter, "case-initiating civil and criminal court records" does not include records that are sealed or proposed to be sealed by court order and are confidential in

1 *accordance with Rules 2.550 and 2.551 of the California Rules of*
2 *Court, or that are otherwise made confidential by law, including,*
3 *but not limited to, juvenile court records made confidential by*
4 *Section 827 of the Welfare and Institutions Code, Child Support*
5 *Case Registry Forms, as developed by the Judicial Council*
6 *pursuant to Section 4014 of the Family Code, adoption records*
7 *made confidential by Section 9200 of the Family Code, pleadings*
8 *in child custody proceedings containing information made*
9 *confidential by Section 3429 of the Family Code, determination*
10 *of parentage records made confidential by Section 7643 of the*
11 *Family Code, child and spousal support enforcement program*
12 *records made confidential by Section 17212 of the Family Code,*
13 *or any other case-initiating document that is confidential by law.*

14 *(b) "Public" means an individual, a group, or an entity,*
15 *including, but not limited to, the print or electronic media, or the*
16 *representative of an individual, group, or entity.*

17 *68181. (a) The Judicial Council shall adopt a rule or rules of*
18 *court to require courts to provide timely public access to*
19 *case-initiating civil and criminal court records. The rule shall*
20 *provide for both of the following:*

21 *(1) Upon request by a member of the public, newly filed or*
22 *lodged case-initiating civil and criminal court records shall be*
23 *made available for public inspection at the courthouse no later*
24 *than the end of the day on which those records are received by the*
25 *court.*

26 *(2) Case-initiating civil and criminal court records may be made*
27 *available for inspection at the courthouse in either paper or*
28 *electronic form.*

29 *(b) The Legislature specifically recognizes the importance of*
30 *timely access not just to case-initiating civil and criminal court*
31 *records, but to all court records and documents. Nothing in this*
32 *statute or in the rule or rules of court to be adopted pursuant to*
33 *this statute may be construed to limit or otherwise negatively affect*
34 *the public's right of timely access to court records as a general*
35 *matter.*